

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

SHCOREY ROSS

PLAINTIFF

VERSUS

CIVIL ACTION NO.: 2:22-cv-00094-RPM

TODD KEMP, et al.

DEFENDANTS

TODD KEMP, BARRY WHITE AND JAMES MOSELY'S
MOTION FOR SUMMARY JUDGMENT

Come now, Defendants Todd Kemp, Barry White and James Mosely, in their individual and official capacities, by and through counsel, and, pursuant to Rule 56(a) of the Federal Rules of Civil Procedure, respectfully submit the following Motion for Summary Judgment:

1.

Plaintiff has alleged that he arrived at Clarke County Jail in March 2022 and was subjected to constitutional violations during his detention. Specifically, Plaintiff asserts violations against Sheriff Todd Kemp, Jail Administrator Barry White and Deputy James Mosely. He contends he was tased by White on May 10, 2022 and on June 26, 2022 by Mosely. *See Compl.* [1]. He also presents conditions of confinement claims: (1) lack of adequate medical personnel on staff; (2) no law library/lack of access to court; (3) no direct sunlight in cell; (4) cold food; and (5) mold in cells and showers.

2.

Plaintiff has now had the opportunity to fully describe his claims. On February 23, 2023, this Court held an Omnibus Hearing to screen Plaintiff's claims. *See Order* [30].

Plaintiff was questioned by both the Court and counsel for moving defendants at this Omnibus Hearing and provided his own testimony with regard to his allegations. *See Tr.* [38]. It has become clear that these Defendants are entitled to dismissal of all claims against them and respectfully move this Court for summary judgment.

3.

As fully outlined in the accompanying Memorandum, and based upon applicable authority and law, there exists no genuine dispute as to any material fact which is triable by jury. Not only can Plaintiff not pierce the qualified immunity afforded these Defendants, he also fails to establish any constitutional violation.

4.

As required by Uniform District Court Rule 7.2, Movants are filing herewith a Memorandum of Authorities and adopt in that Memorandum all applicable arguments.

5.

In support of the grounds above, Movants respectfully request this court consider the following attached exhibits, which are referenced in Movants' supporting Memorandum of Authorities:

Exhibit A: Omnibus Hearing Transcript;

Exhibit B: Affidavit of Todd Kemp;

Exhibit C: Officer Incident Report;

Exhibit D: CLT-(ROSS)-000036; and

Exhibit E: Inmate Complaint Form.

WHEREFORE PREMISES CONSIDERED, based on the arguments set forth herein and their Memorandum of Authorities, Defendants, Todd Kemp, Barry White, and James Mosely, respectfully request that, pursuant to Rule 56 of the Federal Rules of Civil Procedure, this Court dismiss Plaintiff's claims against them with prejudice.

DATE: June 30, 2023.

Respectfully submitted,

**TODD KEMP, BARRY WHITE AND
JAMES MOSELY**

By: /s/ Kevin J. White
One of Their Attorneys

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CERTIFICATE OF SERVICE

I, the undersigned, of Allen, Allen, Breeland & Allen, PLLC, one of the attorneys for defendants, hereby certify that I filed Todd Kemp, Barry White and James Mosely's Motion for Summary Judgment with the Clerk of Court via the ECF system which gave notice to the following to:

Thomas J. Bellinder, Esq.
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Attorney for Plaintiff

This the 30th day of June, 2023.

/s/ Kevin J. White
OF COUNSEL